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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON – EUGENE DIVISION

VITEK CONSTRUCTION, LLC, an Oregon Limited Liability Company;

Plaintiff,

v.

NAVIGATORS INSURANCE COMPANY,  
a foreign insurer;

Defendant,

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NAVIGATORS INSURANCE COMPANY, a foreign insurer;

Counterclaimant

v.

VITEK CONSTRUCTION, LLC, an Oregon Limited Liability Company;

Counterclaim Defendant.

No. 6:14-cv-01073-MC

**STIPULATED MOTION FOR STAY  
AND [PROPOSED] ORDER**

NAVIGATORS INSURANCE COMPANY, a foreign insurer;

Third Party Plaintiff

v.

ALPHA-C, INC. a/k/a ISE PROPERTIES, INC. d/b/a WEST COAST INN, an Oregon Corporation; XL SPECIALTY INSURANCE COMPANY, a Delaware Corporation.

Third Party Defendants

## I. STIPULATED MOTION

The parties to this action, Vitek Construction, LLC (“Vitek”), Navigators Insurance Company (“Navigators”), Alpha-C, Inc., a/k/a ISE Properties, Inc. d/b/a West Coast Inn (“Alpha-C”), and XL Specialty Insurance Company (“XL Specialty”) (collectively, the “Parties”), through their respective counsel, hereby submit the following Stipulated Motion for Stay. The Parties stipulate and jointly move the Court for an Order to stay the instant matter until August 18, 2015.

### A. Current Status

In the instant matter, the Parties are engaged in substantial efforts to settle all claims in this matter and in the underlying matter. A mediation occurred on July 8, 2015. During that mediation, all claims in the underlying lawsuit and the coverage action involving Alpha-C were resolved. The Parties anticipate finalizing the Alpha-C settlement shortly. With regard to all claims involving Vitek and XL Specialty, the Parties believe that final resolution of all claims, including the XL Specialty claims, may be achieved shortly. Some of the Parties are requesting this stay in order to avoid incurring costs that could impede settlement efforts.

Navigators has recently filed a Motion for Leave to Amend [Dkt. 50] and a Motion for Summary Judgment [Dkt. 47]. Any response to Navigators' Motion for Leave to Amend is currently due on July 24, 2015 and any response to Navigators' Motion for Summary Judgment is currently due on July 31, 2015. Additionally, the Parties are currently required to finish discovery by August 15, 2015, submit their expert disclosures by August 31, 2015, and file any dispositive motions by September 8, 2015. [Dkt. 45].

A stay in this matter will allow the Parties to attempt to continue negotiations while avoiding potentially unnecessary expenses and judicial resources. If this matter does not resolve by August 18, 2015, the Parties have further agreed to submit an updated joint status report to the Court, proposing new deadlines for the case.

#### **B. Legal Standard**

Regarding a motion to stay, a district court has the inherent power to control its own docket and calendar. *Cedano v. Thrifty Payless, Inc.*, 2011 U.S. Dist. LEXIS 155956, 13, 2011 WL 8609402 (D. Or. May 9, 2011) (citing *Mediterranean Enters., Inc. v. Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th Cir. 1983)); see also Fed. R. Civ. P. 16. The interests the district court should weigh in determining whether to exercise its discretion to stay the proceedings include:

[T]he possible damage which may result from the granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measured in terms of simplifying or complicating issues, proof, and questions of law which could be expected from a stay.

*CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). “Courts have interpreted the third factor as a question of judicial economy.” *Cedano*, 2011 U.S. Dist. LEXIS 155956, 14, 2011 WL 8609402 (citations omitted).

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**C. Analysis**

In weighing the first two factors to determine whether the Court should stay the present matter, the Parties agree that there is no damage, hardship, or inequity that any of the Parties will suffer if the Court grants this short stay. The third factor, a question of judicial economy, also weighs in favor of the Court granting the stay since it will give the Parties an opportunity to resolve this matter without expending any further judicial resources. The factors all weigh in favor of the Court exercising its discretion to stay this matter until August 18, 2015.

**D. Conclusion**

Based on the foregoing, the Parties respectfully request that the Court grant the Parties' Stipulated Motion to Stay and enter an order staying the matter until August 18, 2015. A proposed order granting the Parties' stipulated motion is submitted herewith for the Court's consideration.

DATED: July 22, 2015

LEATHER & ASSOCIATES, PLLC

*/s/ Thomas Lether*  


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*/s/ Eric J. Neal*  


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*Attorneys for Navigators Insurance Co.*

DATED: July 22, 2015

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DATED: July 22, 2015

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## **II. PROPOSED ORDER**

THE COURT, having reviewed and considered the Parties' Stipulated Motion to Stay, hereby orders that this matter is hereby STAYED. The clerk is directed to remove all pleading deadlines and actions from the calendar until August 18, 2015. Should this matter not resolve by August 18, 2015, the Parties shall submit an updated joint status report to the Court for consideration.

SIGNED this \_\_\_\_\_ day of July, 2015.

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JUDGE MICHAEL J. MCSHANE